

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff-Respondent,

v.

CIV 11-1135 LH/KBM
CR 08-0683 LH

ERIC M. MADRID,

Defendant-Movant.

**ORDER ADOPTING MAGISTRATE JUDGE'S
PROPOSED FINDINGS**

The Magistrate Judge filed her Proposed Findings and Recommended Disposition on April 25, 2012. *See Doc. 20.* Defendant filed objections to one aspect of the statute of limitations analysis that discusses an unsettled area of law, and which ultimately does not affect the substantive outcome. *See Doc. 21.* The United States filed objections to the equitable tolling portion of statute of limitations analysis. *See Doc. 24.* I have carefully reviewed the objections de novo, and overrule them. *See Garcia v. City of Albuquerque*, 232 F.3d 760, 766-67 (10th Cir. 2000).

Wherefore,

IT IS HEREBY ORDERED THAT:

1. Defendant's motion for judgment on the pleadings (*Doc. 15*) is granted in part and reserved in part;
2. The present record conclusively establishes a *Flores-Ortega* violation, and that Defendant is entitled to equitable tolling; and,

3. The Court will vacate and reenter the judgment of conviction and sentence in the associated criminal action, so that Defendant may file a timely direct appeal; and
4. Any remaining issues in this habeas action are held in abeyance pending the outcome of the appeal.



Steven M. Hauser
SENIOR UNITED STATES DISTRICT JUDGE